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TO RUEHC/SECSTATE WASHDC IMMEDIATE 1188
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RUEHBY/AMEMBASSY CANBERRA IMMEDIATE 9998
RUEHWL/AMEMBASSY WELLINGTON IMMEDIATE 1074
RUEAWJA/DEPT OF JUSTICE WASHDC IMMEDIATE
RHEHNSC/NSC WASHDC IMMEDIATE
RHMCSUU/FBI WASHINGTON DC IMMEDIATE
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C O N F I D E N T I A L SECTION 01 OF 03 JAKARTA 012492

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DEPT FOR L/LEI AND EAP/MTS
DOJ FOR OIA ROBINSON/WARNER/ROWAN, CTS THORNTON, AAG SWARTZ
DOJ FOR OPDAT ALEXANDRE/LEHMANN/CRAWFORD
FBI FOR ETTIU/SSA ROTH
MANILA FOR COLE
BANGKOK FOR SONDERBY

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TAGS: [PREL](#) [PGOV](#) [PTER](#) [PCRM](#) [KTIA](#) [KJUS](#) [ID](#)
SUBJECT: TIME TO INITIATE MLAT TALKS WITH INDONESIA

REF: A. JAKARTA 9443
[1](#)B. JAKARTA 11889

Classified By: Political Officer Adam West for reasons 1.4(b) and (d).

Summary

[1](#)1. (C) We believe it is in the U.S. interest to initiate Mutual Legal Assistance Treaty (MLAT) talks with Indonesia. These negotiations could then be announced in connection with the upcoming POTUS visit to Indonesia (para 10). Conclusion of an MLAT agreement would strengthen the growing ties between our respective law enforcement institutions and facilitate greater cooperation in areas such as counterterrorism, anti-narcotics trafficking, anti-corruption and money laundering. Although previous discussions regarding a MLAT were aborted in 2001, changes in the legal and political environment, particularly since the 2004 election of President Yudhoyono and his government's increased emphasis on the fight against terrorism, corruption, and drug traffickers have brightened prospects considerably. An Oct. 5 meeting between regional DOJ attaches reconfirmed GOI officials' strong interest in moving forward. The enactment of the Law on Mutual Legal Assistance in Criminal Cases in March, the recent completion of an MLAT among ASEAN members (Indonesia has yet to ratify) and between the GOI and Hong Kong, and the creation of the AGO's Terrorism and Transnational Crime Task Force are important manifestations of Indonesia's desire to take international legal cooperation to a new level. In addition, the Indonesian Attorney General underlined this in a late August meeting with the Ambassador. End Summary

The Case for Moving Forward

[1](#)2. (C) We believe that the negotiations with Indonesia on establishing an MLAT should be started as quickly as possible and that agreement to negotiate should be announced on the occasion of the POTUS visit to Indonesia. The time is ripe for such talks since an MLAT is an achievable goal that fits well with our needs for greater cooperation on legal issues. We would both be better able to obtain responses to our requests and respond to Indonesian requests for assistance as

they tackle increasingly seriously the myriad of transnational and domestic crime problems that they face. It will strengthen our ability to help them in the many areas in which we have a strong interest: counter- terrorism, money laundering, trafficking in persons, and narcotics. Over the last year, the establishment of a Resident Legal Adviser office and the permanent staffing of a Legatt office has allowed us to assess even more carefully Indonesian abilities to implement an eventual MLAT. With our continued engagement, we believe the Indonesians are ready for that additional responsibility.

13. (C) C-175 authority to negotiate a MLAT with the GOI was originally granted in 2000. In 2001, the Embassy recommended against moving forward in light of political conditions at that time. By 2006, however, the political environment has significantly changed. Since the election of President Yudhoyono in 2004, there have been major strides in the fight against terrorism, a major expansion of anti-corruption arrests, and closer cooperation in the fight against narcotics. The government has been taking important steps to improve the quality of the police and prosecutors. This has been particularly reflected in the effective counterterrorism work that they have been doing.

14. (C) Coinciding with our interest, the Indonesian emphasis on anti-corruption and counter-narcotics in particular have led to an increased focus by responsible GOI officials on MLATs as a mechanism for both collecting evidence against suspects and instituting forfeiture proceedings against ill-gotten gains held outside the country. Indonesia has long-standing MLATs with Australia and China, and in recent years has drafted agreements with South Korea (2002), the

JAKARTA 00012492 002 OF 003

ASEAN collective (2004 - ratification pending), and Hong Kong (2006 - ratification pending). Indonesia has extradition treaties with Australia as well as a number of ASEAN countries. Attorney General Saleh stressed the value of this increasing international cooperation in a meeting with the Ambassador on August 30.

Indonesian Officials Support Opening Negotiations

15. (SBU) GOI representatives again expressed their interest in opening negotiations on a Mutual Legal Assistance Treaty (MLAT) to US DOJ Regional Attaches Christopher Sonderby and Jeffrey Cole at an informal meeting on October 5. The meeting was chaired by the Secretary to the Deputy Attorney General for Supervision, Sudibyo Saleh, and was attended by representatives from the Ministry of Law and Human Rights, the Coordinating Ministry for Political, Legal, and Security Affairs and the Attorney General's Office (AGO). During the meeting, GOI officials expressed their belief that conclusion of a MLAT would improve cooperation across a wide spectrum of law enforcement activities, including counterterrorism, anti-narcotics, anti-corruption, and money laundering cases. They expressed confidence that GOI authorities would have the capability to deliver the various types of evidence that U.S. law enforcement officials were likely to request, including records of financial transactions and telephone and cell phone records. Both sides agreed that it was essential to design cooperation mechanisms that would enable them to respond to requests for information quickly.

16. (C) The Legal Department of the AGO subsequently identified three areas in which a MLAT would assist the GOI in providing cooperation to the USG. First, the presence of an MLAT would mean that the Foreign Ministry would be less involved in the processing of individual requests, reducing the potential for bureaucratic or other forms of delay. Second, assistance from Indonesian courts could be obtained more readily with an MLAT. Third, forfeiture of assets within Indonesia would become more feasible.

MLAT Legislation Provides a Foundation

¶7. (SBU) Reflecting its growing interest in cooperation and sharing evidence in criminal cases, Indonesia passed comprehensive Mutual Legal Assistance legislation in March. This MLA legislation provides a legal foundation for the forms of cooperation which would be contained in an MLAT and names the Ministry of Law and Human Rights as the central authority for administering MLA requests. At the time of the law's passage, DOJ noted that it was a good step towards greater cooperation but, along with the UN Office on Drugs and Crime (UNODC), identified some potential shortcomings in the legislation in the areas of search and seizure and witness immunity, among others, which should be addressed during any potential MLAT discussions.

New Offices Can Facilitate Cooperation

¶8. (SBU) Overall, cooperation between U.S. and Indonesian law enforcement continues to improve. In August, a permanent FBI Legal Attache arrived in Indonesia, after a series of rotations by personnel on shorter tours, usually on loan from other offices, who reported to Legatt Singapore. It is expected that we will add an Assistant Legal Attache (ALAT) position by year's end. The successful establishment of a permanent Legatt office here reflects the belief within the FBI that cooperation with Indonesian law enforcement is of growing strategic importance. Their presence will substantially facilitate the satisfaction of MLA requests by providing a point of contact within the Embassy.

¶9. (SBU) Another new institution which could prove useful in the context of an MLAT is the AGO's Terrorism and Transnational Crime Task Force. Created with the help of \$750,000 in ESF funds, the Task Force is devoted to

JAKARTA 00012492 003 OF 003

prosecuting significant terrorism, money laundering, trafficking-in-persons (TIP) and cybercrime cases (ref A). Since its inauguration two months ago, the Task Force is now involved in the prosecution of 21 defendants, including the Jemaah Islamiyah-linked individuals charged with beheading three Christian girls in Poso and defendants in Semarang accused of assisting fugitive terrorist mastermind Noordin Top (ref B). The Task Force would be a useful institutional partner in ensuring continued development of bilateral and international law enforcement cooperation.

¶10. (C) Action request: Expedited Departmental approval by the end of October of the principle of opening is necessary in order to complete preparations with the GOI, including an exchange of letters of intent or other appropriate bilateral agreement to proceed, in time for the POTUS visit. We could then ensure that plans to initiate negotiations are included in the joint statement by the two governments during the visit.
PASCOE